

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 12-58599-PJS

RICHARD MARTIN LEWISTON,

Chapter 7

Debtor.

HON. PHILLIP J. SHEFFERLY

UNDISPUTED ELECTION REPORT

Daniel M. McDermott, United States Trustee for Region 9, pursuant to 28 U.S.C. § 586(a)(5) and Rule 2003(d)(2) of the Federal Rules of Bankruptcy Procedure (“F.R.Bankr.P.”), and for his report to the Court regarding the undisputed election in the above-referenced matter, states as follows:

BACKGROUND

1. This matter was filed August 13, 2012 as a voluntary case under Chapter 7 of the United States Bankruptcy Code;
2. Pursuant to 11 U.S.C. § 701 the United States Trustee appointed K. Jin Lim as the interim trustee;
3. On August 13, 2012 the notice for the First Meeting of Creditors was prepared by the Clerk of the Court and transmitted to the Bankruptcy Noticing Center;
4. On August 15, 2012 the Bankruptcy Noticing Center prepared and filed a certificate of mailing which indicated that a total of fifty five (55) notices had been mailed in this case;
5. The date and time indicated in the notice for the First Meeting of Creditors was September 20, 2012 at 9:30 a.m.

ELECTION REQUEST

6. On or about September 18, 2012 First State Bank of Northwest Arkansas, through its counsel, made a written request for a trustee election by including an electronic copy of its proof of claim in the amount of \$11,077,0543.24, indicating that it met the requirements of 11 U.S.C. § 702(b).

7. Based on the filed schedules First State Bank of Northwest Arkansas' claim was sufficient to make an election request;

8. On September 20, 2012, Assistant United States Trustee Marion J. Mack, Jr. attended the § 341 creditors meeting and advised the interim trustee and creditors present that an election request had been made by First State Bank of Northwest Arkansas;

9. Appearances were placed on the record and ballots issued to the following 5 creditors:

a. First State Bank of Northwest Arkansas - \$11,077,543.24 unsecured claim (Exhibit #1);

b. Level One Bank - \$1,200,000.00 unsecured claim (Exhibit #2);

c. Jaffe Raitt Heuer & Weiss - \$1,000,000.00 unsecured claim (Exhibit #3)¹;

d. Multibank - \$383,072.00 unsecured claim (Exhibit #4);

e. Smiths and Richards-Pitt, LLC. - \$3,104,000.00 unsecured claim (Exhibit #5);

10. First State Bank of Northwest Arkansas nominated Gene R. Kohut;

11. First State Bank of Northwest Arkansas is the only creditor to have filed a proof of claim at the time the election was held.

¹ The ballot filed by Creditor Jaffe Raitt Heuer & Weiss indicates the amount of the claim is "greater than \$1 million". A claim has not been filed by Creditor as of the date of this report. Schedule F (Dkt. #40) schedules an undisputed claim to Creditor for an unknown amount. For the purposes of this report in this case it is not necessary for the UST to know with specificity the amount of the claim.

FACTS AND LAW

12. In accord with the teachings of *In re American Eagle Mfg., Inc.* 231 B.R. 320 (9th Cir. B.A.P. 1999) and *In re Michelex, Ltd.*, 195 B.R. 993 (Bankr. W.D. Mich. 1996), the sheer magnitude of First State Bank of Northwest Arkansas unsecured claim (\$11,077,543.24), in light of the total unsecured claims as scheduled by the debtor (\$17,564,506.24), satisfies the requirements of 11 U.S.C. §702 for the purpose of making determinations regarding the election request and election results;

13. Pursuant to 11 U.S.C. §702(c) First State Bank of Northwest Arkansas, Gene R. Kohut, is the duly elected trustee. Mr. Kohut's office address is: 21 Kercheval Ave, Suite 285, Grosse Pointe Farms, MI 48236. His telephone number is: 313.886.9765. His email address is: gene@gktrustee.com.

Respectfully submitted,

DANIEL M. McDERMOTT
UNITED STATES TRUSTEE
Region 9

By /s/ Kelley Callard (P68537)
Kelley.Callard@usdoj.gov
Trial Attorney
Office of the U.S. Trustee
211 West Fort St - Suite 700
Detroit, Michigan 48226
(313) 226-6773

Dated: September 20, 2012

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FOR THE EASTERN DISTRICT OF MICHIGAN
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EXHIBIT LIST

- | | |
|-----------|--|
| Exhibit 1 | Election Ballot – First State Bank of Northwest Arkansas |
| Exhibit 2 | Election Ballot – Level One Bank |
| Exhibit 3 | Election Ballot – Jaffe Raitt Heuer & Weiss |
| Exhibit 4 | Election Ballot – Multibank |
| Exhibit 5 | Election Ballot – Smiths and Richards-Pitt, LLC |
| Exhibit 6 | Sign in sheet for creditors attending 341 Meeting of Creditors |

ELECTION BALLOT

In re: Richard Martin Lewiston
Chapter 7 Case No. 12-58599
Hon. Phillip J. Shefferly

I cast my vote for Gene R. Kohn to serve as the permanent trustee in
the above-referenced case. The amount of my claim is \$11,077,543.24

Creditor - First State Bank of Northwest Arkansas

Submitted by:

David Dragich
Signature

Printed Name: David Dragich

Title: Attorney for above-referenced
creditor

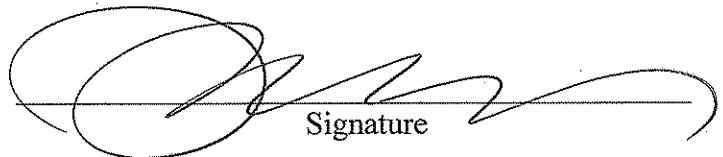
Date: 9-20-12

ELECTION BALLOT

In re: Richard Martin Lewiston
Chapter 7 Case No. 12-58599
Hon. Phillip J. Shefferly

I cast my vote for GENE KOHUT to serve as the permanent trustee in
the above-referenced case. The amount of my claim is \$1,200,000. (appx.).

Submitted by:


Signature

Printed Name: John T. Below

Title: Counsel for Level One Bank

Date: 9-20-12

ELECTION BALLOT

In re: Richard Martin Lewiston
Chapter 7 Case No. 12-58599
Hon. Phillip J. Shefferly

I cast my vote for Mr. Kohut to serve as the permanent trustee in
the above-referenced case. The amount of my claim is greater than 1 million,

Submitted by:



Linda P. Brinkman Signature

Printed Name: _____

Title: _____

Attorney for
Jesse R. Smith, Owner & Manager

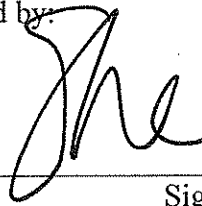
Date: 9-20-12

ELECTION BALLOT

In re: Richard Martin Lewiston
Chapter 7 Case No. 12-58599
Hon. Phillip J. Shefferly

I cast my vote for Gene Kohut to serve as the permanent trustee in
the above-referenced case. The amount of my claim is \$383,072.

Submitted by:



Signature

Printed Name:

Eric Shefferly

Title:

ATTY FOR MULTIBANK, CHAIRMAN

Date: _____

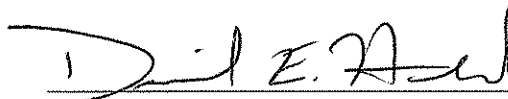
ELECTION BALLOT

In re: Richard Martin Lewiston
Chapter 7 Case No. 12-58599
Hon. Phillip J. Shefferly

I cast my vote for K. Jin Lim to serve as the permanent trustee in
the above-referenced case. The amount of my claim is _____.

Smiths \$1.5M
Richards-Pitt LLC \$1,604,000

Submitted by:


Signature

Printed Name: Daniel E. Harold

Title: Counsel

Date: 9/20/12

CREDITORS ATTENDING § 341 MEETING OF CREDITORS

Case Name: Richard Martin Lewiston

Case Number: 12-58599

Name of Individual: First State Bank of North West Arkansas
Company Name: David Pragich, Attorney, Harrington Pragich PLLC
Address: 21043 Mark Avenue, Gross Pointe Woods, MI 48236
Phone Number: (313) 886-4550

Name of Individual: Level One Bank / Creditor
Company Name: John T. Below, Attorney for Creditor, Kotz Sangster Wysocki PC
Address: 400 Renaissance Center, #3400, Detroit, MI
Phone Number: (313) 259-8597

Name of Individual: MULTIBANK 2009-PBS-APC VENTURE, LLC / CREDITOR
Company Name: ERIK SCOTEI BLUE, ATTORNEY, FRASCO CAPOMIGLIO WINTMON
Address: 1668 TENNESSEE, SUITE 200, # SCOTEI BLUE, BLOOMING HAVEN, MI 48302
Phone Number: (248) 334-6767

Name of Individual: LARRY RUKHJIN
Company Name: JUSTICE RUKHJIN FIRM PLLC
Address: 1277 Franklin St, Southfield, MI
Phone Number: (248) 367-1844

Name of Individual: _____
Company Name: _____
Address: _____
Phone Number: ()

Name of Individual: _____
Company Name: _____
Address: _____
Phone Number: ()

CREDITORS ATTENDING § 341 MEETING OF CREDITORS

Case Name: Richard Martin Lewiston

Case Number: 12-58599

Name of Individual: Smiths, Spizizens, Shapiros, Pitt, Richards (and affiliated companies of all)
Company Name: c/o Morganroth & Morganroth, PLLC
Address: 344 N. Old Woodward Ave., Suite 200, Birmingham, MI 48009
Phone Number: (248) 864-4000

Name of Individual: _____
Company Name: _____
Address: _____
Phone Number: ()

Name of Individual: _____
Company Name: _____
Address: _____
Phone Number: ()

Name of Individual: _____
Company Name: _____
Address: _____
Phone Number: ()

Name of Individual: _____
Company Name: _____
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Company Name: _____
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